IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b))
Description of case

Writ Petition No. 1391 (S/B) of 2002

Date of decision- 09.09.2003

For the approval of:-

Hon'ble Chief Justice S.H. Kapadia.

Hon'ble Mr. Justice Rajesh Tandon, J.

-Whether the order/judgment should be sent to the
reporters for reporting? (Yes)

-Whether the reporters be allowed to see the judgment?
(Yes)

(N.C. Melkani)
P.S.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1391 (S/B) 2002

Smt. Leena Singh]
W/o Sri Umesh Vir Vikram Singh,]
Resident of 743, I.D.P.L. Rishikesh,]……. ….Petitioner

Vs.

The Resistrar Co-operative Societies.]
And others.]……..Respondents.

Mr. Arvind Vashishtha, Advocate for the petitioner,
Mr. V.B.S. Negi, Mr. U.K. Uniyal for Registrar Co-operative Society.
Learned C.S.C. for the State.

Coram: Hon'ble S.H. Kapadia, C.J.
Hon'ble Rajesh Tandon, J.

Date: 09.09.2003:

ORAL JUDGMENT [Per Hon. Chief Justice]

Garhwal Co-operative Bank is a registered Bank under U.P. Co-operative Societies Act 1965. It is a primary Co-operative Society. In September 1999, respondent Nos. 6 to 9 resigned from service. Their resignation was accepted by the Committee of Management. In the meantime, the Committee of Management was superseded and an Administrator was appointed. Respondent Nos. 6 to 9 made an application to the Administrator stating that they had not resigned and their signatures were forged. The Administrator conducted an enquiry. The Administrator obtained opinion from Handwriting Expert. According to the Handwriting Expert, the resignation letters were forged. The Administrator, accordingly, forwarded his report to the Registrar. In the report, the Administrator has recommended reinstatement of respondent Nos. 6 to 9. By the impugned order, passed by the Registrar, the report of the Administrator, in effect, has been accepted.

Being aggrieved, the present writ petition has been filed by erstwhile member of the Managing Committee.

Mr. Vashishtha, learned Advocate for the petitioner contended that the impugned order passed by the Registrar dated 29th August 2002 was without any authority. He contended that under Section 128 of U.P. Co-operative Societies Act 1965, the Registrar may annul any resolution passed by the Committee of Management if he is of the opinion that the resolution is in contravention of the provisions of the Act. However, before making any such order, the Registrar shall require the Managing Committee of reconsider the resolution. He contended that in the present case, no enquiry was held by the Registrar under Section 128 of U.P. Co-operative Societies Act. He contended that the impugned order passed by the Registrar dated 29 August 2002 directing reinstatement was in violation of Section 128 of U.P. Co-operative Societies Act.

We do not find any merit in the above argument. In the Present case, after the Managing Committee passed its' resolution accepting the resignations, the Managing Committee was superseded and the Administrator was appointed under the U.P. Co-operative Societies Act. With the supersession of the Managing Committee all its powers vested in the Administrator. In the present case, the Authority Administrator conducted the enquiry. He has recommended reinstatement on the basis of the opinion of the Handwriting Expert. Under that opinion, the Handwriting Expert has found that the resignations were forged; the Administrator has been appointed by the Registrar; the Administrator has submitted his report to the Registrar and the Registrar has accepted the report. Under Section 35(3) of the Act, the Registrar has superseded the Managing Committee and in place of the Managing Committee, he has appointed an Administrator. The Administrator has been appointed after the earlier Managing Committee had accepted the resignations. After the Administrator took charge, the above fraud was detected. The Administrator has submitted his report and under Section 35(3) of the Act, the Administrator had to abide by the directions of the Registrar. Therefore, the Administrator submitted his report and the Registrar

has accepted the report. Pursuant to that report, the Registrar has directed reinstatement of respondent Nos. 6 to 9. Hence, Section 128 of the Act has no application. Under Section 128 of the Act, the Registrar has the power to annul the resolution of the Co-operative Society. In this case, after the resolution of the Managing Committee, an Administrator was appointed. The power of the Managing Committee vested in the Administrator. The Administrator detected the above fraud and his decision has been accepted by the Registrar. Therefore, there is no question of annulment of the resolution of the Managing Committee.

For aforesaid reasons, there is no merit in the writ petition. Writ petition is rejected. Interim order is vacated.

(Rajesh Tandon, J.) **(S.H. Kapadia, C.J.)**

Melkani: